

REMARKS

Remarks About the Restriction Requirement:

In the outstanding Office Action, the Examiner has withdrawn claims 49-51 from consideration as being directed to a non-elected invention (Office Action at 2). The Examiner has asserted that the claims 49-51 are distinct from the invention originally claimed, and in particular as being “directed to a garment with fastening components capable of being moved *from a secured to an unsecured position*” (Office Action at 2). Applicants respectfully traverse the restriction requirement for the following reasons.

As a threshold matter, the Examiner has misquoted and reversed the language of the claim – new claim 49 recites that the “attachment panels are moveable *between an unsecured position* wherein said fastening elements are not secured to one another, *and a secured position* wherein said attachment panels extend underneath said crotch portion adjacent said garment side of said undergarment with said fastening elements secured to one to the other, and wherein said side edges are deflected with respect to said central portion as said attachment panels are moved *from said unsecured position to said secured position.*” Contrary to the Examiner’s assertion, claim 49 does *not* recite a “refastenable garment,” or that the fasteners are moved in the opposite direction (from the *secured* to the *unsecured* position), although claim 49 of course would encompass a refastenable garment, as would original claim 35.

Moreover, Applicants originally claimed “means for anchoring said free portions of said garment attachment panels so as to establish a predetermined deflection of said side edges . . . where said means for anchoring said free portions of said garment attachment panels comprises mating fastener elements” (see original claim 35). As such both original claim 35 and new claim 49 are directed to the same subject matter, namely fastening components that are *secured* one to other so as to produce a deflection of another component. For this reason alone, the finality of

the Office Action should be withdrawn so that the Examiner may consider claims 49-51 on the merits.

Rejection of Claim 35:

The Examiner has asserted that the recitation of “mating fasteners” in claim 35 is not a structural limitation, but rather merely an intended use. Applicants respectfully disagree. Indeed, the Examiner’s interpretation of claim 35 presents the unusual situation of one reading limitations *out of the claim*, and completely disregards the term “mating,” defined as “to join or fit together” (*see, e.g., Webster’s Ninth New Collegiate Dictionary*; Specification at 8, lines 14-36).

On its face, claim 35 recites that the “means for anchoring said free portions of said garment attachment panels comprises *mating fastener elements*, one on each of said garment attachment panels.” Moreover, claim 35 recites that the means for anchoring said free portions of said garment attachment panel establishes “a predetermined deflection of said side edges and [facilitates] accurate mounting of said sanitary napkin on said undergarment.” As such, the “mating fastener elements” are just that – mated. In view of the plain language of the claims and the specification, the term “mating” can only be interpreted as a structural element, and the assertion that it merely describes an “intended use” does not make any sense.

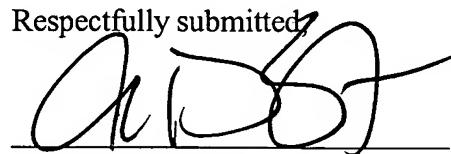
In contrast, as pointed out in the prior amendment, the fastener elements of Osborn do not, and in fact cannot, mate or engage with one another. Accordingly, claim 35 should be passed to allowance.

Rejection of Claim 47:

The additional recitation of USP 4,608,047 to Mattingly does not supply the deficiencies of Osborn. Mattingly discloses only a single anchoring means, not one on each of the panels on

opposite sides thereof as recited in claim 47. In addition, Osborn teaches against having fastening components on opposite sides as explained in the prior response. Accordingly, the combination of Osborn and Mattingly is lacking both in supplying all of the recitations, as well as a motivation to modify the references, as required to establish a prima facie case of obviousness.

For all of the above reasons, this Application is in condition for allowance, both as to form and over the prior art. Such action is courteously solicited.

Respectfully submitted,

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